

## **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: :  
 : Docket #20cr623  
 UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :  
 :  
 - against - :  
 :  
 WILLIE DENNIS, : November 19, 2021  
 : New York, New York  
 Defendant. :  
 ----- :

PROCEEDINGS BEFORE  
THE HONORABLE ONA T. WANG  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE  
BY: SARAH KUSHNER, ESQ.  
One Saint Andrew's Plaza  
New York, New York 10007

For Defendant: FEDERAL DEFENDERS OF NEW YORK INC.  
BY: NEIL KELLY, ESQ.  
52 Duane Street, 10<sup>TH</sup> Floor  
New York, New York 10007

ALSO PRESENT: PRETRIAL SERVICES OFFICER

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE CLERK: United States versus Willie Dennis,  
20cr623. Counsel, please state your name for the  
record starting with the government.

MS. SARAH KUSHNER: Good afternoon, Your Honor,  
Sarah Kushner for the government.

MR. NEIL KELLY: Good afternoon, Your Honor, Neil  
Kelly, Federal Defenders of New York, on behalf of Mr.  
Dennis.

HONORABLE ONA T. WANG (THE COURT): All right, good  
afternoon, this is Judge Wang. Mr. Dennis, are you able to  
speak and understand English.

THE DEFENDANT: Yes, I am, Your Honor.

THE COURT: All right. I understand we may  
also have a Pretrial officer on the phone?

PRETRIAL SERVICES OFFICER: Yes, Your Honor,  
this is Courtney Defeo on behalf of Pretrial Services.

THE COURT: Okay. All right, I'm going to ask  
that anybody who is not actively speaking keep your  
phone on mute so we reduce the background noise to a  
minimum. All right, we are here for an initial  
appearance and arraignment. We are in the midst of the  
Covid-19 pandemic. I am conducting this proceeding  
pursuant to the authority provided by Section 15002 of  
the CARES Act and the standing orders issued by our

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Chief Judge pursuant to that act. Counsel are appearing by telephone and the defendant is also participating by telephone. I also note that this telephone line is open to the public and the press on a listen only basis.

I'm going to go down and each participant in this conference the same two questions and I'm going to start with the government, and the questions are, number one, can you clearly hear everyone and, number two, will you let me know promptly if you cannot, Ms. Kushner?

MS. KUSHNER: Yes and yes, and I apologize for the background noise, I am outside.

THE COURT: Okay. Mr. Kelly, can you clearly hear everyone and will you let me know promptly if you cannot?

MR. KELLY: Yes, Your Honor.

THE COURT: Okay. Ms. Defeo, can you clearly hear everyone and will you let me know promptly if you cannot?

PRETRIAL SERVICES OFFICER: Yes, Your Honor.

THE COURT: And, Mr. Dennis, can you clearly hear everyone and will you let me know promptly if you cannot?

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THE DEFENDANT: Yes, I will, I can, Your Honor, and I will.

THE COURT: All right. Where is the defendant currently located and who, if anyone, is physically present with him?

FBI SPECIAL AGENT: Mr. Dennis is current in FBI space at 290 Broadway, New York, New York, with FBI Special Agents Elizabeth Wheeler and Mica Freeman.

THE COURT: Okay. Has the defendant had an opportunity to consult with counsel in advance of this proceeding and when and how did those consultations take place?

MR. KELLY: Yes, Your Honor, this is Neil Kelly, I have had several telephone conversations with Mr. Dennis throughout the day today, I would say three or four telephone conversations that were facilitated by the special agent calling me from a phone at the FBI offices and then putting Mr. Dennis on the line.

THE COURT: All right. Why, I mean we are moving more toward in person proceedings, is there a reason why we couldn't have had this meeting in person today?

MS. KUSHNER: Your Honor, this is the government, my understanding from the marshals and the

1  
2 court is that the Covid protocol for individuals  
3 arriving from outside of the United States is that they  
4 still must be presented remotely. Mr. Dennis has been in  
5 the Dominican Republic since February of 2020, and while  
6 his counsel may know about his vaccination status, I  
7 don't, and for all those reasons we were told it would  
8 have to be remote.

9 THE COURT: All right. Okay, I understand, I  
10 thought he had been, he was present in New York City for a  
11 period of time.

12 All right, we'll next proceed to appointment of  
13 counsel. Mr. Dennis, you have the right to an attorney for  
14 all court proceedings, including this one, and during all  
15 questioning by the attorneys -- by the authorities. You  
16 have a right to hire your own attorney, but if you cannot  
17 afford one I will appoint one to represent you at the  
18 government's expense.

19 THE DEFENDANT: Okay, Your Honor, I at this  
20 point cannot --

21 THE COURT: Wait, no, no, no, you're not  
22 expected to speak right now.

23 THE DEFENDANT: Oh, I'm sorry.

24 THE COURT: Okay. I'm going to, I'm going to  
25 review over the phone the financial affidavit that has

1  
2 been provided by defense counsel Mr. Kelly has  
3 provided the Court with a financial affidavit for the  
4 defendant for the purposes of the Court appointing him  
5 counsel for the defendant. Mr. Kelly, was this  
6 affidavit prepared in consultation with Mr. Dennis in  
7 advance of this proceeding?

8 MR. KELLY: Yes, Your Honor, Mr. Dennis did  
9 not have it in front of him but we filled it out  
10 together over the phone.

11 THE COURT: All right. All right, Mr. Dennis,  
12 I'm going to summarize what's on the financial  
13 affidavit, I'm going to ask you if that, and I'm just  
14 going to summarize it not in explicit detail and then  
15 I'm going to ask you if it's substantially correct,  
16 and then if you do say that I'm going to ask you to  
17 swear to it, okay?

18 THE DEFENDANT: Yes, Your Honor, okay.

19 THE COURT: All right. So what this form says  
20 is under the income and asset section it indicates  
21 that you are not currently employed. Your assets  
22 consist of a home that's a multi-unit building in  
23 Manhattan, there is an approximate value attached to  
24 that home. That there is a 401(k) with an approximate  
25 value attached to that. And other property in the



1  
2 Dominican Republic which is, of which you own I guess  
3 50 percent and that is subject to divorce proceedings.  
4 And then you have some cash or money in savings and  
5 checking accounts, the total approximate amount after  
6 monthly expenses is about \$7,000 or \$8,000. Under  
7 obligations, expenses and debts, there's about, just  
8 about \$4,000 total in monthly expense and you are in  
9 default and arrears on several other, several other  
10 items that I think substantially outweigh the assets  
11 and the income that you have.

12 All right, before I ask you to swear to it I  
13 need to ask you if the information I've just  
14 summarized about your financial conditions is  
15 accurate?

16 THE DEFENDANT: Yes, Your Honor, that  
17 information is accurate.

18 THE COURT: All right, do you have any  
19 additional sources of income that I did not cover in  
20 my summary just now?

21 THE DEFENDANT: No, Your Honor, I do not.

22 THE COURT: All right, I'm now going to place  
23 you under oath to affirm the truth of the information  
24 set forth on your financial affidavit. Do you solemnly  
25 swear or affirm that the information contained in your

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affidavit that I have just summarized is true and correct?

THE DEFENDANT: Yes, I do, Your Honor.

THE COURT: All right, I find that the defendant qualifies for the appointment of counsel and appoint Mr. Kelly to represent him. Just a moment while I sign the form.

All right, we are next going to go to the consent to proceed by telephone. And I am, I have a form also that was provided by Mr. Kelly. All right, I have a form that was provided by Mr. Kelly that reads as follows. "Defendant, Willie Dennis, hereby voluntary consents to participate in the following proceeding via tele or video conferencing," and the boxes initial appearance and appointment of counsel and arraignment are checked. Mr. Kelly has signed it on his own behalf and has slash-signed with his initials for you, Mr. Dennis. I am going to ask you first, have you had an opportunity to discuss with your attorney the issue of participating in today's proceeding by telephone?

THE DEFENDANT: Yes, Your Honor, I've had an opportunity to discuss with Mr. Kelly participating by telephone today.

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THE COURT: All right, do you agree to participate in this proceeding by telephone?

THE DEFENDANT: Yes, Your Honor, I do.

THE COURT: All right. Did you give Mr. Kelly permission to electronically sign your name on your behalf?

THE DEFENDANT: Yes, I did, Your Honor.

THE COURT: All right. Mr. Kelly, do you also consent to this proceeding going forward by telephone?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right, I find that the defendant has knowingly and voluntarily agreed to participate in this conference by telephone. Just a moment while I sign this form.

All right, Ms. Kushner, can I have the date and time of arrest, please

MS. KUSHNER: Yes, Your Honor, the defendant was arrested in the Dominican Republic on November 16<sup>th</sup> between approximate 2 and 4 p.m., and he arrived in New York last night, yesterday afternoon, November 18<sup>th</sup>, at approximately 4:30 p.m.

THE COURT: All right, thank you. I am Judge Wang. You are here because you are charged with certain crimes by an indictment. Do you have a copy of

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2 the indictment?

3 THE DEFENDANT: Yes, Your Honor, I do.

4 THE COURT: All right, the purpose of today's  
5 proceeding is to advise you of certain rights that you  
6 have, inform you of the charges against you, consider  
7 whether counsel should be appointed for you, and  
8 decide under what conditions, if any, you shall be  
9 released pending trial.

10 I am now going to explain certain  
11 constitutional rights that you have. You have the  
12 right to remain silent. You are not required to make  
13 any statements. Even if you have already made  
14 statements to the authorities, you do not need to make  
15 any further statements. Any statements that you do  
16 make can be used against you.

17 You have the right to be released, either  
18 conditionally or unconditionally pending trial, unless  
19 I find that there are no conditions that would  
20 reasonably assure your presence at future court  
21 appearances and the safety of the community.

22 If you are not a United States citizen, you  
23 have the right to request that a government attorney or a  
24 law enforcement official notify a consular officer from  
25 your country of origin that you have been arrested. In

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some cases a treaty or other agreement may require the United States government to give that notice whether you request it or not.

You have the right to be represented by an attorney during all court proceedings including this one, and during all questioning by the authorities. You have the right to hire your own attorney. If you cannot afford an attorney, as you've seen, I have appointed one today to represent you. Do you understand your rights as I have just explained them?

THE DEFENDANT: Yes, I do, Your Honor.

THE COURT: All right, I have before me an indictment that contains four counts of cyberstalking. Counsel, have you seen this indictment?

MR. KELLY: Yes, Your Honor.

THE COURT: And have you reviewed it with your client?

MR. KELLY: I have, Your Honor.

THE COURT: And do you waive its public reading?

MR. KELLY: Yes, we do.

THE COURT: All right, just a minute. All right, and Mr. Dennis, do you understand the charges against you?

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THE DEFENDANT: Yes, I do, Your Honor.

THE COURT: And how does the defendant wish to plead at this time?

MR. KELLY: Your Honor, Mr. Dennis enters a plea of not guilty to all charges contained in the indictment.

THE COURT: Okay, a plea of not guilty will be entered and the record shall reflect that the defendant has now been arraigned.

I'm also now going to read the Rule 5(F) order to the government. I direct the prosecution to comply with its obligation under *Brady versus Maryland and its Progeny* to disclose to the defense all information, whether admissible or not, that is favorable to the defendant, material either to guilt or to punishment, and known to the prosecution. Possible consequences for noncompliance may include dismissal of individual charges or the entire case, exclusion of evidence and professional evidence or court sanctions on the attorneys responsible. I will be entering a written order more fully describing this obligation and the possible consequences of failing to meet it and I direct the prosecution to review and comply with that order. Does the prosecution confirm

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that it understands its obligations and will fulfill them?

MS. KUSHNER: Yes, Judge.

THE COURT: All right, I'll hear next from the government as to bail, detention or release, is there any agreement?

MS. KUSHNER: Your Honor, the parties do have a bail package that has been agreed upon.

THE COURT: All right, why don't you let me know what the proposed package is.

MS. KUSHNER: Your Honor, it would be a bond, \$200,000 bond, cosigned by three financially responsible persons, location monitoring as supervised by Pretrial, travel restricted to SDNY and NDNY -- sorry, SDNY and EDNY. Surrender all travel documents, including passports, and make no new applications. Obtain -- refrain from any contact, direct or indirect, with victims. Those victims would include, there's four victims, of course, discussed in the indictment, but there are many other individuals that are part of the scheme and I believe the victims would encompass pretty much every, every person at K&L Gates, certainly every partner at K&L Gates and their families, and to stay away from K&L Gates' offices

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2 anywhere. There's additional former K&L Gates  
3 employees and some other individuals, we put a list  
4 together and can provide that list to Pretrial  
5 Services so the defendants knows exactly who, in  
6 addition to K&L employees, he should not be  
7 contacting. And then I believe, I believe that's  
8 everything, unless defense counsel may have something  
9 else to add.

10 MR. KELLY: No, Your Honor, that's -- that's  
11 correct.

12 THE COURT: All right, just a moment. All  
13 right, is there anything that Pretrial would like to  
14 add?

15 PRETRIAL SERVICES OFFICER: No, not at this  
16 time, Your Honor.

17 MR. KELLY: Your Honor, this is Neil Kelly  
18 again, I apologize, I should have made one point that  
19 Ms. Kushner made, I should have elaborated on one  
20 point. The no contact order, which we're consenting  
21 to, and the list of names that the government will  
22 provide and that we'll agree upon, we would just note  
23 that Mr. Dennis obviously has an ongoing civil  
24 litigation involving his former firm. I understand  
25 that that, Mr. Dennis has been prosecuting that civil



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2 litigation pro se, so obviously we'll agree upon the  
3 proper procedures. I, my understanding is that the  
4 firm of K&L Gates has, itself, hired outside counsel  
5 for that civil litigation and arbitration, so I don't  
6 think this will be an issue because any communications  
7 relating to the arbitration will involve that other  
8 firm. And there has been no allegation that there has  
9 been any improper contact with that firm, to my  
10 knowledge. So I just wanted to get on the record that,  
11 gain, we're agreeing to the no contact order, and  
12 there will necessarily need to be a carve out relating  
13 to the civil litigation but, again, I think any  
14 contact there will be with another firm and not  
15 relevant to the issues that the government has here.

16 THE COURT: All right. I have a couple of  
17 questions I think about some of the recommendations of  
18 Pretrial and I was just going to go through them.  
19 That Pretrial's recommendation includes participating  
20 in mental health treatment and counseling as directed  
21 by Pretrial Services?

22 MS. KUSHNER: Your Honor, this is Sarah  
23 Kushner from the government, I apologize, the parties  
24 have agreed to that, as well. And, in addition, there  
25 was one other condition I forgot to mention which is

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that we ask that the defendant, who opens and creates new email accounts constantly so that he can contact the victims, not open any new email accounts without, you know, Pretrial's approval and, similarly, not open any new phone lines about Pretrial's approval.

MR. KELLY: Yeah, and just to elaborate on that, Your Honor, this is Neil Kelly, Mr. Dennis would continue with, he's already enrolled in mental health treatment, he would continue that, obviously, under the direction of Pretrial Services and the level of care deemed appropriate by Pretrial Services. So, yes, we do consent to that additional condition and to confirm on the record, we do confirm the condition that the phone number that Mr. Dennis will use going forward will provide that to Pretrial Services so they know what phone number he has, and he will not, we're agreeing that he will not open any new phone numbers or email accounts going forward, as well.

THE COURT: All right. My next one that I did not notice covered in the initial proposed package was that Mr. Dennis would submit to an initial urinalysis, if positive we would add the condition of drug testing and treatment as directed by Pretrial?

MR. KELLY: So this is Neil Kelly. I think as

1  
2 the Pretrial Services Report reflects, Mr. Dennis was  
3 candid with Pretrial Services that he occasionally  
4 uses marijuana and that there's a possibility that  
5 that might be flagged in a urinalysis in this case, if  
6 ordered. I don't think drug treatment is necessary in  
7 this case given the record that the Court can see in  
8 the Pretrial Services Report. But if the Court or  
9 Pretrial Services thinks it is necessary, we would not  
10 object as a condition of release, but based on the  
11 record I don't think it's necessary.

12 THE COURT: Okay, the next, I am going to  
13 impose it, I typically impose it because if the  
14 urinalysis comes back clean or if, you know, Pretrial  
15 determines that there is, you know, no need for  
16 further drug testing or treatment it's up to them and,  
17 you know, nothing else changes.

18 What about the recommendation to either obtain  
19 or maintain or seek verifiable employment?

20 MR. KELLY: Yeah, so Mr. Dennis is, obviously,  
21 he's involved in civil litigation regarding his  
22 employment status. I think we can agree that he will  
23 seek employment, that will obviously, there are a lot  
24 of moving (indiscernible) involved here that we  
25 couldn't necessarily all hash out today, but we will

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2 agree to that condition and we'll will work with  
3 Pretrial Services on securing appropriate employment  
4 going forward.

5 THE COURT: All right, let's see. Okay, what  
6 about the condition that, I'm not sure that I saw, I  
7 heard it, is home detention enforced by location  
8 monitoring, is that correct? Is that agreed?

9 MS. KUSHNER: Yes, Judge.

10 THE COURT: All right, and then my, another  
11 one that often comes up is not to possess a firearm,  
12 destructive device or other weapon?

13 MR. KELLY: Yes, Your Honor, that would,  
14 that's not an issue here, so we consent to that.

15 THE COURT: All right, and what about, what  
16 about Mr. Dennis' travel documents?

17 MR. KELLY: Your Honor, Neil Kelly again, the  
18 agents are already in possession of his United States  
19 passport, which is his only travel document.

20 THE COURT: Okay. All right, and then the last  
21 thing that it says on the Pretrial Report is that the  
22 defendant is to be detained until all signatures are  
23 obtained on the bond, is that right?

24 MR. KELLY: We, I should say the defense and the  
25 government have agreed that that condition can be waived

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2 because we consented to location monitoring. It's our  
3 understanding that location monitoring is self-  
4 installed. So because location monitoring will be  
5 installed by Mr. Dennis when he returns home, we've  
6 agreed with the government that the condition that  
7 signatures be secured first can be waived.

8 THE COURT: Okay, so then when would those,  
9 when would those signatures or that condition be met?

10 MR. KELLY: I think the standard two weeks  
11 would be fine for the defense, if that's okay with the  
12 government?

13 MS. KUSHNER: No objection from the government.

14 THE COURT: Okay, any -- any issue with that  
15 with Pretrial?

16 PRETRIAL SERVICES OFFICER: No, Your Honor.

17 THE COURT: Okay. Do we still need to include  
18 the language the defendant be permitted to self-  
19 install the location monitoring? I thought that we  
20 were now directing defendants to appear at Pretrial  
21 Services?

22 PRETRIAL SERVICES OFFICER: So they are  
23 appearing at our office to have the bracelet affixed  
24 to their ankle, however, they are still being sent  
25 home with the device to plug into the wall, which is

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the self-installation.

THE COURT: All right, so when can, when will Mr. Dennis be fitted with the bracelet?

PRETRIAL SERVICES OFFICER: If he is to be released on his own signature, it would be Monday morning because the location monitoring officer is no longer here in the office today.

THE COURT: All right.

PRETRIAL SERVICES OFFICER: And I do believe since he traveled from the Dominican Republic that he would actually have to submit to two negative Covid tests before entering the building, I believe is still the standing orders.

MR. KELLY: If that's, if that's still the case, Your Honor, we can have, or excuse me, we would request that Mr. Dennis be permitted to travel to one of the New York City testing locations so he can get that clearance so he can then enter the courthouse.

MS. KUSHNER: Your Honor, this is the government, I was under the impression that the location monitoring basically would be able to be installed today, which is why I agreed on the cosigners don't have to sign the bond, but it makes me a little bit nervous that there will be a whole

1  
2 weekend without any sort of monitoring. I just wanted  
3 to note that but I guess with the Covid complications  
4 it doesn't seem like it's something that can happen  
5 before Monday.

6 THE COURT: Right. I mean I am a little bit  
7 confirmed about risk of nonappearance here, given that  
8 Mr. Dennis was indicted in 2020 and Mr. Dennis was,  
9 until recently, in the Dominican Republic, that's what  
10 I understand.

11 MR. KELLY: Sure, Your Honor, this is Neil  
12 Kelly again, just to elaborate on that. The case I  
13 believe was originally charged back in 2020, but it  
14 was not unsealed until recently. Mr. Dennis has been  
15 residing in the Dominican Republic because that was,  
16 as Your Honor can see from the Pretrial Services  
17 Report and the CJA form, he has, his family has  
18 traveled to the Dominican Republic frequently over the  
19 course of their, the past several years. He had gone  
20 down there before the Covid crisis unfolded, so before  
21 this case was charged he had already been down there.  
22 it's not like he went there after this case was filed  
23 or charged, he went down there with no knowledge that  
24 any investigation was still ongoing. In fact, it's my  
25 understanding that this, the underlying conduct here

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2 was originally presented to the Manhattan DA's office  
3 and that Mr. Dennis and his counsel had actually met  
4 with and spoken with the Manhattan DA's office about  
5 the factual matter underlying this case and no charges  
6 were brought in state court, and he had participated  
7 in that process and had, had worked collaboratively  
8 with the state authorities.

9           And so the, just to clarify the timeline, it's  
10 not like he went down to the Dominican Republic after  
11 this case was charged and remained there, he had no  
12 idea this case was pending at all until he was  
13 arrested in the Dominican Republic a few days ago. So  
14 what I would say, in terms of any concern about the  
15 risk of flight is, one, you know, as the Court saw  
16 from the Pretrial Services report and CJA application,  
17 you know, Mr. Dennis is not in a financial position to  
18 flee and hide from any future Court appearances. He  
19 was residing openly under his own name at a, at a  
20 residence in the Dominican Republic, that's where he  
21 was arrested, it's not like he was hiding or avoiding  
22 detection or arrest, he had no idea that there was any  
23 case out that would require him to report back to New  
24 York.

25           Again, he was arrested in the Dominican



1  
2 Republic because that's where he was residing under  
3 his own name and, similarly, he's been actively  
4 participating in two other court proceedings,  
5 obviously not criminal, but his civil litigation  
6 against his former law firm and his divorce  
7 proceedings and related collateral proceedings. He's  
8 been actively participating in those as well. And as  
9 Your Honor saw from the Pretrial Services Report,  
10 significant amounts of money are involved in those  
11 proceedings. So, you know, this is not someone who's  
12 fleeing his obligations, who's avoiding his  
13 obligations, even when he has, you know, civil  
14 litigation that if it goes against him would result in  
15 several hundred thousand dollars of liabilities, he's  
16 been actively participating in those proceedings.

17           Obviously, his passport, as I mentioned, is  
18 already in the possession of the agents and just to  
19 round out the risk of flight concerns, his connections  
20 to the New York area are both extensive and deep.  
21 He's spent his entire life in the New York area. He  
22 owns property in New York which is the location to  
23 which he would return. His two sons live in the New  
24 York area. Obviously, his litigations that he's  
25 involved in outside of this case are based in New

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2 York. So he has, he has significant interest in  
3 participating not only in this proceeding, as he's  
4 obligated to, but in many other matters that give him  
5 an incentive to remain in New York. Again, his living  
6 arrangement in the Dominican Republic was unrelated to  
7 this case, unrelated to any avoidance of obligations  
8 that arise out of New York, and to the contrary, he's  
9 shown that he's perfectly responsible and will  
10 participate in any court proceedings in which he is  
11 required to appear for.

12 And I would also note the one prior case that  
13 he had, which was ultimately dropped, but before those  
14 charges were dropped, he participated in all  
15 proceedings relevant to that case, as well, there was  
16 no report of any bench warrant or failure to appear in  
17 connection with that case.

18 So, to summarize, he does not have the means  
19 to flee, he doesn't have the travel documents to flee.  
20 He has no incentive to flee. He's shown to be a  
21 reliable defendant who will appear in court when  
22 necessary. And his ties and connections to the  
23 community are deep and extensive. So I think any  
24 concern the Court might have about a risk of flight  
25 should be alleviated by what I've just recited.

1  
2 And on a fairness point, I would just note  
3 that, you know, by the luck of the draw today we  
4 didn't get to appear before Your Honor until the  
5 Pretrial Services officer was no longer in the  
6 building to help install any device. If we had been  
7 lucky enough to appear before Your Honor earlier in  
8 the afternoon, we could have worked something out with  
9 Pretrial so that he had been fitted with a bracelet  
10 before that officer left today. So I don't think Mr.  
11 Dennis should be penalized just for the luck of the  
12 draw of when we ultimately were able to see the Court.

13 So I'm happy to answer any other questions but  
14 those are the reasons why I do not think he's a risk  
15 of flight that no conditions can reasonably assure his  
16 appearance.

17 FBI SPECIAL AGENT: Also, Your Honor, this is  
18 Special Agent Wheeler, since Mr. Dennis can't access  
19 his defense counsel right now to add something in, he  
20 did have something he wanted to add in, so I don't  
21 know how you want to handle that?

22 MR. KELLY: Can I call the cell phone?

23 THE COURT: I can put you in a private  
24 breakout room and when you're done just dial back into  
25 this number and you'll be placed back in the main

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room.

MR. KELLY: Okay.

THE COURT: Okay, and nobody can come into the private breakout room, so just a minute. Hold on. So wait for two beeps and then you can confirm that you're in your private breakout session, all right, just a minute. It takes me a few seconds to move you. So I'm moving Mr. Dennis and Mr. Kelly, right?

MR. KELLY: Yes.

THE COURT: Okay. During that time, I'm actually going to move Ms. Defeo and myself into a separate room because I just needed to ask a little bit about logistics, okay, hold on.

(PAUSE IN PROCEEDING)

FBI SPECIAL AGENT: This is Special Agent Wheeler and Special Agent Freeman here with Willie Dennis.

MR. KELLY: Hi, this is Neil Kelly again.

FBI SPECIAL AGENT: Neil, this is Liz Wheeler from the FBI, are we the only ones on?

MS. KUSHNER: I think we're just waiting for the Judge and Pretrial to rejoin.

FBI SPECIAL AGENT: Okay.

MR. KELLY: Yeah, have everyone, so if Mr.

1  
2 Dennis has any other questions for me he should hold  
3 them.

4 FBI SPECIAL AGENT: No, he doesn't, we just  
5 didn't get any response when we called in so we just  
6 wanted to make sure that, you know --

7 MR. KELLY: Yep, it sounds like this is the  
8 main line for everyone, we're just waiting for the  
9 Judge.

10 (PAUSE IN PROCEEDING)

11 THE COURT: All right, this is Judge Wang, I  
12 think we are all back in the main conference room  
13 which is still being recorded. I just wanted to  
14 confirm, Mr. Dennis, are you on the line?

15 THE DEFENDANT: Yes, I am, Your Honor.

16 THE COURT: Okay. You may need to talk, I'm  
17 going to ask Mr. Kelly, are you back on the line, too?

18 MR. KELLY: Yes, Your Honor.

19 THE COURT: Okay, is there, do you need  
20 perhaps to talk to the government about how to work  
21 this out logistically? My concern is that I am not  
22 inclined to release Mr. Dennis on his own signature  
23 for three or more days with no other restrictions,  
24 particularly where Pretrial has recommended detention  
25 until all conditions are met. At a minimum, I'd want

1  
2 either a bracelet or cosigners, okay, but I understand  
3 that neither of those can be accomplished before  
4 Monday at the earliest so, and I know the government  
5 has also expressed some concern about releasing Mr.  
6 Dennis on his own signature without any other,  
7 anything else sort of constraining or requiring him to  
8 appear.

9           The additional logistic problem, the  
10 additional logistical problem is Mr. Dennis does need  
11 to get a bracelet fitted, but under the Court's  
12 current international travel and testing protocols, he  
13 would still need two negative tests to get the  
14 bracelet fitted. So I was wondering if you needed some  
15 time to discuss and, if so, I can give you that time  
16 and put you in a private breakout session or,  
17 alternatively, we can hash it out right now in the  
18 main room, how do you want to approach this?

19           MR. KELLY: Sure, why don't I make a proposal  
20 in the main room first and see what the Court and the  
21 government's response is to it, and then if it's, if  
22 it requires more discussion with the government I can  
23 speak with Ms. Kushner at that point.

24           THE COURT: All right, why don't you go ahead.

25           MR. KELLY: Okay. So Mr. Dennis brought to my

1  
2 attention that the government right now is also in  
3 possession of Mr. Dennis' credit cards, debit cards,  
4 wallet, any access he would have to any funds,  
5 whatsoever, are currently in the possession of the  
6 government. And because it is a weekend, you know, Mr.  
7 Dennis would consent to the government holding on to  
8 everything except his key to get into his house and  
9 his driver's license or identification until Monday  
10 morning. I mean he'll need his identification, one, so  
11 he has his identification and, two, so that when he  
12 gets his Covid tests they can confirm it's his  
13 identity. And so he's willing to consent to the  
14 government holding on to everything it has except the  
15 minimum he needs to enter his home and be released  
16 today until he's fitted with a bracelet on Monday.

17           With respect to the actual fitting of the  
18 bracelet, I will obviously defer to Pretrial Services,  
19 but from the bracelets that I've seen affixed to  
20 clients previously, it is a process that involves, you  
21 know, the wearer being, I don't know, you know,  
22 measured, somewhat and then an adhesive device, excuse  
23 me, adhesive tape being placed on them and the device  
24 being placed over the tape on their ankle. Again, I'd  
25 obviously defer to Pretrial Services and I'm not

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telling anyone how to do their job, but that having seen it done, it does seem like a process that could be accomplished outdoors.

And so, one, we will try to get Mr. Dennis to Covid test over the weekend. I know for a fact that there are NYC Health and Hospitals Corporation locations that are open, if not we'll go to a private service to get him two tests over the weekend before Monday so that he can enter the courthouse. If that is insufficient for some reason, I can represent to the Court that I and/or a member of the staff of the Federal Defenders of New York can accompany Mr. Dennis to the entrance to 500 Pearl Street and stand with him outside if the Pretrial Services officer would prefer to affix the device outside. Again, I don't think that's a lengthy process having seen it, but if there are other logistical concerns I'm not aware of, I'm happy to discuss those, as well.

THE COURT: All right. I'm looking at the courthouse's entry protocol for travelers dated September 24, 2021, it does set out different protocols and requirements for vaccinated and unvaccinated travelers. I am also going to put out there as a question whether there is another place



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2 that has a less restrictive protocol that can be used  
3 for Mr. Dennis to get the bracelet affixed or, you  
4 know, bracelet fitted on the 22<sup>nd</sup>. The other thing,  
5 you know, whether that's outdoors or whether that's  
6 somewhere else, the Court takes no position.

7 I'm also wondering whether the counsel for the  
8 government and Mr. Kelly and perhaps Ms. Defeo might,  
9 would want to have a private breakout room to discuss  
10 some potential logistics about that. I'm, you know, I  
11 don't care or would like need to know Mr. -- or care  
12 or need to know, Mr. Dennis' vaccination status, but  
13 perhaps you may want to discuss that privately.

14 MR. KELLY: Sure, Your Honor, if either  
15 Pretrial Services, or the Court or the government have  
16 any concerns with my proposal, I'm happy to discuss it  
17 further in a private room.

18 THE COURT: Yes, why don't I put you all in a  
19 private room and then I'll let one of you email me,  
20 email to my chambers when you're ready to come back,  
21 okay? Then should I bring Mr. Dennis into the private  
22 breakout room, as well?

23 MR. KELLY: Sure, if it's not an extra burden.

24 THE COURT: Nope, it's not at all and that way  
25 you can ask him your questions as they come up. Okay,

1 33

2 hold on, wait for the beep. Still moving people.

3 (PAUSE IN PROCEEDING)

4 MR. KELLY: Are we on with anyone else, Sarah,  
5 Pretrial?

6 MS. KUSHNER: I'm on, Sarah's on.

7 MR. KELLY: Okay, so we're in the main room,  
8 Mr. Dennis, just hold tight.

9 THE COURT: Hi, this is the Judge again, I was  
10 also off on another call. Okay, I think, are we ready  
11 to proceed?

12 MS. KUSHNER: The government and Pretrial are.

13 THE DEFENDANT: Mr. Kelly --

14 MR. KELLY: Hold on, Mr. Dennis, do you have  
15 another question for me or are we ready to proceed?

16 THE DEFENDANT: I have one other important  
17 point that I wanted to --

18 MR. KELLY: Okay, okay, so let's just ask the  
19 Judge for two more minutes then. I'm sorry, Your  
20 Honor, could the defense have two more minutes in the  
21 breakout room?

22 THE COURT: Sure, I'll move you back into the  
23 breakout room, hold on a second.

24 MR. KELLY: Thank you.

25 (PAUSE IN PROCEEDING)

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MS. KUSHNER: Did the defense rejoin, I believe they said that they were actually ready now?

(PAUSE IN PROCEEDING)

THE COURT: Hello, this is Judge Wang again, Mr. Kelly and Mr. Dennis, you're back and ready to be back?

MR. KELLY: This is Mr. Kelly and we're ready to be back.

THE DEFENDANT: And Mr. Dennis is here, as well, Your Honor.

THE COURT: All right, thank you. What, if anything, were you able to work out on this logistics issue?

MS. KUSHNER: Your Honor, this is the government. Pretrial and the government both believe, given all the logistics, that the defendant should remain in custody until Monday when he could be fitted hopefully outside with a location monitoring bracelet. Us keeping the documents, you know, we found today is not very reassuring. I don't know what's in his Manhattan home. I know there was at least \$2,000 of cash (indiscernible) devices found in his Dominican Republic apartment when he was arrested this week, and I just don't have any insight into what he has access

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2 to that are not access using credit cards or ATM  
3 machines. I'll also note that while Mr. Kelly, I  
4 believe, proposed that he keeps his license and keys,  
5 my understanding from that what the agents have is  
6 that there is, we don't have his license, we have an  
7 old ID card for a previous law firm that the defendant  
8 worked at, and nothing else with pictures besides  
9 passports. So to give him back an ID we'd be giving  
10 him back a passport and, of course, for all the very  
11 real risk of flight reasons that exist here, the  
12 government would not agree to that, as well. So partly  
13 because of logistics and the timing of it all,  
14 combined with the risk of flight and the fact that the  
15 location monitoring was going to be the sufficient  
16 means to assure his reappearance, the government, and  
17 my understanding is Pretrial still is in agreement  
18 with the government that it would not be appropriate  
19 to release him unless and until he's fitted with the  
20 bracelet or has the two signed, the two cosigners  
21 lined up and ready to go on Monday.

22 MR. KELLY: Your Honor, this is, this is Neil  
23 Kelly again. So I'm not trying to retrade anything  
24 here but since the government is now asking for  
25 detention, I'm going to make my sole argument here.

1  
2 That location monitoring, itself, is not necessary in  
3 this case because Mr. Dennis voluntarily waived  
4 extradition proceedings in the Dominican Republic to  
5 come back to the United States to face these charges. He  
6 was arrested in the Dominican Republic, again, where he  
7 was living openly, under his own name, at a specific  
8 location that everyone knew where he was, which is where  
9 he's been located. He has been participating, as I've  
10 mentioned, in multiple civil litigations in New York State  
11 and has been participating in them actively, he's not  
12 avoiding any obligations here.

13           He, again, when he was arrested, voluntarily  
14 signed a document to bring himself back to the United  
15 States to face these charges undercutting any suggestion  
16 that he's trying to avoid these charges or avoid this  
17 case. Again, he went to the Dominican Republic a year and  
18 a half ago before these charges were ever filed, so he was  
19 not fleeing them, he was residing there in the open under  
20 his own name.

21           With respect to, again, why we're even having  
22 this conversation, Mr. Dennis should not be punished  
23 because by the luck of the draw we didn't get to speak  
24 to Your Honor until after Pretrial Services had left.  
25 If we had been presented at 3:00, Mr. Dennis would

1  
2 have, we had an agreement with the government about  
3 conditions, he would have walked across the hallway or  
4 outside and gotten fitted with a bracelet and been able to  
5 go home. And I just find it profoundly unfair that by the  
6 luck of the draw he's now facing the prospect of a weekend  
7 in prison.

8           And, on top of that, I would note, as is obvious  
9 in the Pretrial Services Report, that Mr. Dennis has  
10 previously has a heart attack. The Court knows that  
11 cardiac issues are a high risk factor for Covid-19. And  
12 while Mr. Dennis might otherwise be in, in, you know,  
13 tiptop shape health wise, he has a history of heart  
14 conditions. I understand from his cosigners that his  
15 family has a history of heart conditions. And to subject  
16 him to a weekend in a congregate setting where the highest  
17 outbreaks of Covid-19 are happening in this country,  
18 solely because of timing issues we weren't able to get in  
19 to get him a bracelet in time, in a case where he  
20 voluntarily showed up, agreed to be brought back to the  
21 United States to be presented and face charges in this  
22 case, is just profoundly unfair. And it raise a risk that  
23 he'll suffer and adverse health condition while in prison,  
24 again, not because he's an actual risk of flight, but just  
25 because the logistics didn't work out for us today.

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And I would note that he already took one Covid test to be brought back into the United States, so he's only waiting for one more Covid test to enter the courthouse to get his bracelet again. And so if, if this had been 3:00 and this had been where we ended up, our office could have brought over a rapid test and tested him at 26 Federal Plaza and then walked across the street to get him a bracelet.

And so on the government's last concern that they don't know what's in his home in Harlem, he hasn't lived there in almost two years at this point, a little less than two years, he's been living full time in the Dominican Republic, and his home in Harlem is undergoing renovations. So there is nothing in that house of value, of danger to anyone that would allow him to flee, because he hasn't been there in over a year and a half, and he's been having contractors come in and out of the house. That's not something someone would do if they had a stash of cash, undeclared cash in the house that they would then use to flee. And again, the government plays it, he doesn't even have any identification on him, so if he's released to his home he's not going to be given back his phones, he does not have his wallet, he will not have his travel documents. He does not

1  
2 have access to any source of funds if the government  
3 holds on to his debit cards and his credit cards. He  
4 voluntarily showed up for this case by waiving any  
5 extradition rights he had in the Dominican Republic.  
6 He has participated and been forthcoming with Pretrial  
7 Services about everything they asked him about. He has  
8 been, he's done everything possible to show the Court  
9 that he's reliable, that he will show up in Court on  
10 Monday morning, and that he will be there to get  
11 fitted with a bracelet.

12           And so it's just, in this situation when there  
13 are no actual concerns of flight, from my point of  
14 view, I don't even think location monitoring is  
15 necessary in this case. I was agreeing to it as a  
16 condition so that Mr. Dennis would not have to spend  
17 another night incarcerated, subjecting himself to  
18 health risks, I don't even think location monitoring  
19 is necessary at all. So with all of those things said  
20 I just see no basis for holing him over the weekend  
21 when this is someone who is facing a maximum, a  
22 maximum, I would add, of five years. Even if he's  
23 convicted on the charge, he has no criminal history,  
24 his guidelines will be extremely low, even if he's  
25 convicted, that it just seems to me that this is not a



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2 case in any way, shape or form that requires Mr.  
3 Dennis to be subject to the health risks of detention  
4 over the weekend. So with all of that I would again  
5 reiterate our suggestion that he be released with the  
6 minimum amount of things that he needs, it sounds like  
7 now it's just a key to get into his home. And then he  
8 will report back 9 a.m. Monday morning, we will have  
9 his second Covid test in hand at that time, and he  
10 will get fitted with a bracelet then. So that is my  
11 proposal, Your Honor.

12 THE COURT: Okay, AUSA Kushner, do you have  
13 anything to add on this? I mean, and also I thought I  
14 had heard at the beginning that there were, that you  
15 had agreed to three cosigners, not two?

16 MR. KELLY: That's correct, Your Honor, we  
17 have agreed to three. I mean I discussed it with Ms.  
18 Kushner and she hadn't raised any objection to the  
19 fact that, we have two already that I've spoken with,  
20 because that was going to be my original proposal, I  
21 don't think we will have any difficulty getting a  
22 third. But as I discussed, you know, sometimes the  
23 paperwork takes a little longer, if it takes us more  
24 than however long to get the first two, I will work  
25 with Ms. Kushner as I have on many other cases in the

1  
2 past to get that done, but we already have two lined  
3 up, the paperwork is just not ready for them to sign  
4 given the hour and the day of the week. But again, we  
5 have two people who I personally have spoken with  
6 today who have indicated they would be willing to  
7 cosign his bond. And one of them, they spoke to  
8 Pretrial Services and Pretrial Services confirmed that  
9 as well. So, again, we're doing everything we can on  
10 our end to make this go as fast as possible.

11 MS. KUSHNER: Your Honor, I would just add,  
12 this is Sarah Kushner, I would just add that the  
13 defendant is a US citizen and, therefore, there  
14 actually is no formal extradition proceeding in the  
15 Dominican Republic. The Dominican Republic just  
16 expelled him. I don't know what paper he signed today  
17 but regardless of whether he signed it or not he would  
18 have been lawfully removed and returned to the United  
19 States without any formal extradition proceeding. So there  
20 was nothing that he had to consent to for him to be  
21 brought back here and my understanding is he was brought  
22 back here because he was expelled from the country based  
23 on our indictment and red notice.

24 And then, secondly, the litigation that's  
25 ongoing is against K&L Gates, is litigation, first of all,

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2 that he instituted, not something that he has to come and  
3 defend himself for, and to date my understanding is all of  
4 the proceedings which in arbitration in DC have been  
5 remote, phone calls. We've actually tried to locate him,  
6 we were hoping to use the times that he appeared on court  
7 appearances remotely in that case to figure out if there  
8 was a way to see where he was with that and we were unable  
9 to do so. So the fact that he has ongoing litigation here  
10 does not really tie him down physically at all. And those  
11 are just the two things that I wanted to add, otherwise we  
12 defer to Pretrial.

13 THE COURT: All right, well I think the time  
14 has come I guess, what is Mr. Dennis' vaccination  
15 status, because that could be relevant?

16 MR. KELLY: He is not vaccinated, Your Honor,  
17 because he, again, his cardiac condition, he had  
18 concerns about that, and so he is not vaccinated.

19 THE COURT: All right, and other question is,  
20 Mr. Dennis, I understand -- Mr. Dennis, Mr. Kelly, you  
21 indicated that you have two cosigners lined up, are  
22 either of them willing to take custody of him if he  
23 were to be released tonight?

24 MR. KELLY: They would if they resided in New  
25 York City but they don't, Your Honor.

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THE COURT: All right.

MR. KELLY: So I can, I mean if, I will say this, I don't want to keep people any longer on a Friday night than they are already here, but if it is a make or break for the Court between whether there is somewhere else, someone who can be a third party custodian through the weekend, I would just ask for five minutes for another breakout with Mr. Dennis to see if he has friends who I might be able to contact to see if he can stay somewhere else for this weekend. I have not done that yet because I thought we had agreement, and the two cosigners are his family members who do not reside in the City of New York. But I would like the opportunity if that's the decision the Court is going to make between whether he goes home or not to have the opportunity to just ask him if he has friends of family in the city who he could stay with this weekend.

THE COURT: Okay, I am not sure that it's make or break anyway, but I will, I would like you to explore that so that I have all of the information available to me and that I have explored everything that I can, okay?

MR. KELLY: Okay, but I would just ask for

1  
2 five minutes with Mr. Dennis in a breakout room.

3 THE COURT: I am going to do that right now,  
4 hold on.

5 MR. KELLY: Thank you.

6 (PAUSE IN PROCEEDING)

7 MS. KUSHNER: I think the defense wants to  
8 rejoin the call.

9 THE COURT: Okay, we'll bring them right back.

10 MR. KELLY: Hi, you have Neil Kelly again.

11 THE COURT: All right, was, is there anything  
12 you'd like to add or to discuss?

13 MR. KELLY: Yes, Your Honor. So with the  
14 assistance of the agents we were able to get the phone  
15 numbers of several individuals in the Harlem area who  
16 Mr. Dennis believes, with whom Mr. Dennis believes he  
17 would be able to stay. Before I contact these  
18 individuals, I just want to make sure I understand  
19 what the Court is requesting so that I am proposing  
20 the right person to the Court, so I was wondering if  
21 the Court could maybe give some guidance as to what  
22 it's looking for and then I can make sure that  
23 whomever I get in contact with is the proper person to  
24 recommend that Mr. Dennis be released to if that is  
25 what the Court is considering?

1  
2 THE COURT: Yes, that wasn't exactly what I  
3 was considering, I had been hoping, I had been  
4 wondering if any of the potential cosigners or if  
5 there was somebody who would have been a cosigner,  
6 would have been a third cosigner who was in the area  
7 and who was willing to take custody of him.

8 MR. KELLY: That's what I'm saying, Your  
9 Honor, I do believe one of the individuals I'm going  
10 to reach out to will agree to serve as one of his  
11 cosigners. I mean my understanding is that given the  
12 time and the process that goes into getting a cosigner  
13 prepared, neither the Court's Clerk's Office, nor the  
14 government's paralegal would be able to turn that  
15 around, you know, in time for him to be signed out  
16 this afternoon, or tonight. I was under the impression  
17 that Your Honor was considering releasing him to  
18 someone as a third party custodian over the weekend  
19 and then having, you know, the process proceed then on  
20 Monday.

21 So to clarify, I don't think we could have,  
22 just logistically, I don't think there is anyone who  
23 could be approved as a cosigner and sign now, whether  
24 we're in New York or elsewhere, just given where we  
25 are timewise.

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THE COURT: Right. And then if there were a third party custodian hypothetically, I think I would be concerned about doing that over the government's objection and, of course, there are the logistical issues, as well. Is that something that I should put you all in a breakout room to discuss or is that something that we should not pursue at this time?

MR. KELLY: Well, again, speaking just for the defense again, you know, we, as I hope I've made clear but I'll make explicit, we are willing to consent to merely any condition the Court wants to impose this weekend to allow Mr. Dennis to be released and not have to spend the next three days in detention. And so, you know, if there are logistical concerns, if there are, you know, I want to make sure I propose the right location, I'd have multiple options based on my conversation with Mr. Dennis. So we are willing to do anything, Your Honor, to get Mr. Dennis out at this point in time so, obviously, anything that Pretrial Services and the government request, but at this point I'm happy to start dialing to find a person who can take third party custody of him over the weekend and ask that person to sign, or approve, or consent to whatever the Court wants just to accommodate this.

1  
2 Because I think we ended up here through no fault of  
3 anyone's, just logistically.

4 THE COURT: All right, I'd like to hear from  
5 the government on this, on this issue, and perhaps if  
6 there, and in particular whether your concerns are  
7 risk of nonappearance, or danger to the community, or  
8 both.

9 MS. KUSHNER: Your Honor, they're both, and I  
10 think that location monitoring, coupled with the stay  
11 away order was sufficient, not being overly  
12 restrictive, to assure appearance and safety. The  
13 safety, I think, the dangerousness to the community is  
14 obvious based on the allegations in the indictment and  
15 the details of that set forth in the complaint. Also  
16 knowing that the indictment and the complaint right  
17 now are limited to four victims, but there's a much  
18 more, much broader situation, and so having him  
19 roaming free in the community for a weekend does not  
20 give me any assurance that the community will be safe  
21 or that he will appear for future court proceedings.  
22 So I appreciate Mr. Kelly's frustration that this has  
23 somewhat become somewhat of a logistical issue, but I  
24 mean at this point, for the safety of the community  
25 and the risk of flight concerns, I don't see how he



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can be released tonight without the location monitoring bracelet being put on.

I don't know who he would be released to as a third party custodian in the community. You know, it sounds like his two family members who are willing to cosign are not in the city. His immediate family, as you know, as has come out tonight, (indiscernible) divorce proceedings, I don't know that there's any family member here or any other way to provide Pretrial or the government with assurance that whatever third party is thrown our way tonight is an appropriate third party custodian.

MR. KELLY: So, Your Honor, now the conversation has moved to dangerousness, so now I have to make my application on dangerousness. And so, again, as Ms. Kushner said, her primary concern with dangerousness which, again, as the Court knows, the government needs to prove by clear and convincing evidence that Mr. Dennis provides a risk of danger to the community. The allegations are that he used electronic means of communication to send threatening and harassing text messages and emails. The entirety of the complaint, there is only one instance recited of an in person interaction where Mr. Dennis and a

1  
2 former colleague were both present at a legal  
3 conference, the allegation is that Mr. Dennis  
4 approached this other Person and verbally had a  
5 conversation with him that was loud, and to the other  
6 person disliked, and the other person walked away and  
7 left. There is no allegation of a threat of physical  
8 harm, there is no allegation of actual physical harm,  
9 there is no allegation of an attempt of physical harm  
10 in the one instance noted in the complaint where there  
11 was any in person interaction.

12           The rest of the allegations in the complaint  
13 are that there were electronic communications that  
14 were threatening and harassing. The government has  
15 now taken all of Mr. Dennis' electronic devices, he  
16 will be subject to the stay away order that we  
17 consented to which was satisfactory to the government  
18 previously, to satisfy them that that would obviate  
19 any risk of dangerousness. He will be subject to that  
20 no matter what happens today, the Court, if it enters  
21 that condition, he is subject to the stay away order.  
22 So the risk of dangerousness is already satisfied, and  
23 the government can't prove that he's a risk of danger  
24 by clear and convincing evidence.

25           On top of that, I just want to make clear what

1  
2 is alleged in the complaint and what is not. What is  
3 alleged in the complaint is over a period of three  
4 years Mr. Dennis has sent threatening and harassing  
5 emails and text messages. In the entirety of that  
6 three year time there is one face to face interaction  
7 in which the government makes an allegation. And as I  
8 have just described to the Court, that was  
9 happenstance that two people happened to be attending  
10 the legal conference at the same time. There is no  
11 allegation of in person stalking, there is no  
12 allegation that Mr. Dennis was showing up at people's  
13 houses or offices or places of business or anything  
14 like that. It's his verbal communication that is the  
15 threat here, excuse me, that is the basis of the  
16 cyberstalking.

17 I would actually clarify what I'm saying which  
18 is that even in the entirety of the complaint, while the  
19 number of text messages and communications are one  
20 concern, the actual content of the communications, if the  
21 Court reads the complaint, there is one communication that  
22 the Court, excuse me, that the government characterizes as  
23 a threat of harm. And I would point out that it is  
24 notable that that communication is one among many that is  
25 just excerpted and not given in context, whereas every

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2 other communication there is a full paragraph. For that  
3 one alleged threat it is excerpted as a few words.

4           The other communications that are mentioned in  
5 the complaint are oblique references to other acts of  
6 violence committed elsewhere in the country at other  
7 periods of time. There is no direct threat that Mr. Dennis  
8 or anyone else is going to show up at the office and harm  
9 anyone. There is no direct threat to anyone in particular  
10 that is recited in the pretty fulsome complaint of  
11 communications that alleges that there have been thousands  
12 of communications, the government surely would have  
13 highlighted any threats if they existed, they don't exist.

14           On top of all of that, I would point out that,  
15 again, across three years of this alleged pattern of  
16 conduct, there was no escalation, there was no plan, there  
17 was no plot, there were no steps taken in furtherance of  
18 any scheme to harm anyone. There is no conspiracy alleged  
19 where he asked other people to harm anyone. This is a  
20 pure case of electronic communications that the government  
21 says make out the claim of cyberstalking and that has been  
22 addressed both by the fact that he has no electronic means  
23 of communications and by the fact that the Court has or  
24 will issue a stay away order.

25           And, again, it is the weekend, none of these

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2 people are going to be, I shouldn't say that, as a former  
3 employee of a large law firm maybe some people will be at  
4 the office this weekend, but very few people will be at  
5 the office during Covid, I'm sure they're all working  
6 remotely at a large law firm. There is, it is  
7 inconceivable that after going through all of this and  
8 being as open and cooperative with the government, with  
9 the Court, with Pretrial Services, that over the weekend  
10 between now and Monday when he can get a bracelet, Mr.  
11 Dennis would wander down without any means of travel or  
12 funds or phone or anything, and randomly bump into someone  
13 affiliated with the law firm. It's just, it's  
14 inconceivable, there is no threat of danger here. And the  
15 idea that now at the last minute this is a concern about  
16 danger when the very danger that is alleged in the  
17 complaint and that was the basis for the government's  
18 concern, we have addressed with the stay away order.

19           So, again, the standard is clear and convincing  
20 evidence, the Court cannot, excuse me, the government  
21 cannot satisfy that burden here and, again, we are asking  
22 for a weekend where Mr. Dennis will be released to a third  
23 party custodian, and not to get ahead of myself because I  
24 haven't spoken to this person yet, but one of the  
25 people who Mr. Dennis has tried to put me in touch

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2 with and who I would like to speak to, is an  
3 upstanding, well known member of the community who I,  
4 again, do not want to identify before I've spoken to  
5 that person, but is a pillar of the Harlem community  
6 and if Mr. Dennis can stay with that person for two  
7 days until he is able to get fitted with a bracelet on  
8 Monday, I think that would address everyone's concerns  
9 on this call. And again, I'll reiterate that we're  
10 only here because of timing, which is not Mr. Dennis'  
11 fault and I don't think he should be penalized for  
12 that. So that is my application on the dangerousness.

13 THE COURT: All right, anything anybody else  
14 wants to add?

15 MS. KUSHNER: Nothing from the government,  
16 Your Honor.

17 THE COURT: All right, I'm going to take a  
18 short break, I'm going to keep you all in the main  
19 room, please stay on mute.

20 (PAUSE IN PROCEEDING)

21 THE COURT: All right, I am ready to proceed,  
22 is the government on the line, still?

23 MS. KUSHNER: Yes, Judge.

24 THE COURT: All right, Ms. Defeo?

25 PRETRIAL SERVICES OFFICER: Yes, Your Honor.

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2 THE COURT: Mr. Kelly and Mr. Dennis, you're  
3 all on the line?

4 MR. KELLY: This is Mr. Kelly.

5 THE DEFENDANT: Mr. Dennis is here, Your  
6 Honor.

7 THE COURT: All right, thank you. All right,  
8 based on my review of the complaint, the indictment,  
9 the Pretrial Services Report, the agreement of counsel  
10 to conditions, and based on some of the argument and  
11 discussion we have had about whether Mr. Dennis can be  
12 released without conditions being, without all the  
13 conditions being met, I am accepting the  
14 recommendation of the conditions and ordering that he  
15 will be detained until either he is able to be fitted  
16 with a bracelet for location monitoring or until his  
17 cosigners have signed the bond, okay, and these are  
18 the conditions and then after that I'll address the  
19 reasons for detaining until at least the location  
20 monitoring or cosigning is met.

21 All right, these are the conditions, I want to  
22 make sure that I have covered everything. He will be,  
23 Mr. Dennis, you will be released on a \$200,000 bond  
24 cosigned by three financially responsible persons to  
25 home detention supported by location monitoring as

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2 directed by Pretrial Services. Travel is restricted  
3 to the Southern and Eastern Districts of New York. He  
4 will surrender, to the extent he hasn't already, all  
5 travel documents and make no new applications. He is  
6 not to possess any firearms, destructive device or  
7 other weapon. Mental health treatment is ordered as  
8 directed or he is to continue what is represented to  
9 be ongoing mental health treatment as directed by  
10 Pretrial Services. He, Mr. Dennis is not to open any  
11 new email or phone accounts without Pretrial approval.  
12 I hear the representation that Mr. Dennis is not  
13 currently employed, but he is to seek employment. He  
14 is to submit to a urinalysis and, if positive, then I  
15 would impose a condition of drug treatment as directed  
16 by Pretrial Services.

17 I may have heard, but I'm not sure, whether he  
18 is to surrender all of his mobile phones and devices  
19 or did I mishear that?

20 MS. KUSHNER: Your Honor, the government is  
21 currently, or law enforcement is currently in  
22 possession I believe of the devices that were found  
23 today, I don't know if there is any other devices. I'm  
24 sorry, we are in possession of the devices, to the  
25 extent that there is one phone that he needs to



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2 communicate, we would just ask that he, again, provide  
3 Pretrial with the number for that phone and I guess he  
4 would have to get a new phone for now.

5 MR. KELLY: Right, Your Honor, to be clear, I  
6 was consenting to the government keeping all of his  
7 electronic devices if he were to be released. If he is  
8 not going to be released, he's entitled to the return  
9 of any devices for which the government does not have  
10 a warrant for. And so he needs, he is entitled to the  
11 return of his property unless it is subject to Court  
12 order. I understand the Court is considering imposing  
13 a condition that he only be able to retain one such  
14 device, in which case I agree with Ms. Kushner that  
15 whatever device he's allowed to retrieve, we will  
16 provide that number to Pretrial Services so they know  
17 which is the number he has. But if the other devices  
18 are not subject to a warrant he is technically  
19 entitled to their return, I was merely consenting to  
20 their collection by the government if that was to be a  
21 condition of his release. But now that he's being  
22 detained, by law he's entitled to the return of his  
23 property.

24 THE COURT: When Mr. Dennis is released he is  
25 directed to provide to Pretrial Services the phone

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2 numbers and email addresses associated with the  
3 devices that he is in, that he possesses, okay, or  
4 that he is given, all right, or that are returned to  
5 him.

6 MR. KELLY: Yes, understood, Your Honor.

7 THE COURT: Okay. Okay, and then I'm probably  
8 going to need some clarification on the no contact  
9 order but let me give it a shot and then I'll let you,  
10 I'll let counsel clarify. He is to have no contact  
11 with the four victims identified in the indictment and  
12 every employee and partner, including former employees  
13 and partners from any office at the law firm of K&L  
14 Gates. He is also not to go to any offices of K&L  
15 Gates. Is there more to that no contact order than  
16 what I've just said?

17 MS. KUSHNER: Your Honor, I believe there may  
18 be a few, very few names of individuals that are not  
19 current or former employees. If they are, the  
20 government will provide those names to Pretrial by  
21 Monday, otherwise that order is certainly sufficient.

22 THE COURT: All right, if there are  
23 additional names of people who are not encompassed in  
24 what I have just said, the government is directed to  
25 provide those names to defense counsel and to Pretrial by

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Monday. All right, is there anything else as far as the agreed to conditions?

MR. KELLY: This is Mr. Kelly again. To clarify again, so Mr. Dennis took one test, Covid test, to be brought into the country. It is my expectation that he will be subject to another Covid test, whether he's sent to Essex, or MDC or Westchester County to be admitted to the facility. That is then two Covid tests in satisfaction of the Court's, excuse me, the Court's Covid rules, but as we also discussed before, if need be Pretrial is able to fit Mr. Dennis outside, if need be.

So I guess that the clarification I'm asking from the Court is it sounds like Mr. Dennis should just be ordered to be produced Monday morning, there is nothing, there is nothing else that needs to be done before he is produced back to the Court on Monday morning to get fitted with a bracelet?

THE COURT: Right, because he could be fitted outside.

MR. KELLY: Correct. So I just want to be clear, both for an order to be provided to the marshals, that we're not waiting, this is not like a normal situation where we're waiting for all conditions to be satisfied, the Court said either cosigners or location

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2 monitoring, which would have been the original agreement,  
3 so I just want to be clear that I think the Court should  
4 just enter an order alongside the detention order  
5 directing the marshal service to produce him to 500 Pearl  
6 Street on Monday morning.

7 THE COURT: Before I get into the next step of  
8 what I was going to do, can you provide an order to that  
9 effect that I will sign and have entered and provide?

10 MR. KELLY: Yes, Your Honor, I'll email that to  
11 chambers as soon as we're done.

12 THE COURT: Okay. All right, are there other  
13 conditions that I did not state?

14 MS. KUSHNER: Not from the government?

15 MR. KELLY: Sorry, I was on mute, no, Your  
16 Honor.

17 THE COURT: Okay. All right, so as I stated  
18 at the beginning before I listed the conditions, Mr.  
19 Dennis is to be detained until either and the earliest  
20 of, whether cosigners have been secured or he is  
21 fitted with a location, with the location monitoring  
22 bracelet. I will enter an order for him to be produced  
23 again on Monday for that to be done.

24 So counsel has made a very vocal argument that  
25 Mr. Dennis should not be detained over the weekend

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2 based on representations that he does not pose a risk  
3 of nonappearance and also due to concerns about Covid  
4 risk in detention. We touched a little bit on danger  
5 to the community. While I am not basing the  
6 determination to detain him until the location  
7 monitoring or cosigners has been secured, I did want  
8 to address it briefly.

9           I mean we heard a lot of argument about  
10 physical danger to the community, but it is not only  
11 physical danger to the community that should be  
12 considered and harm to victims of cyberstalking for  
13 repeated and unwanted and harassing communications is  
14 a real harm. So repeated and continuing  
15 communications over a period of years that are  
16 detailed in the complaint are, are concerning, okay;  
17 however, that is not what I was basing my detention  
18 over the weekend on, all right. The government has  
19 shown by a preponderance of the evidence, a risk of  
20 nonappearance if Mr. Dennis were to be released  
21 without at least a location monitoring or cosigners  
22 having been secured. Mr. Dennis was arrested in the  
23 Dominican Republic on a red card, and although he had  
24 previously resided in the community for decades, his  
25 ties to the community have eroded in recent years, as

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2 detailed in the Pretrial Report, and he has not been  
3 present in the Southern District of New York for over  
4 20 months. The Pretrial recommendation request of the  
5 government is that Mr. Dennis' appearance be secured  
6 by something other than his own signature and I find  
7 that that is appropriate under these circumstances.

8 All right, Mr. Dennis, I'm also going to now  
9 give you the warnings that you get and that you should  
10 get on release. If you fail to appear in Court as  
11 required or if you violate any of the conditions of  
12 your release, one, a warrant will be issued for your  
13 arrest; two, you and anyone who sign the bond will  
14 each be responsible for paying its full amount, that  
15 is \$200,000 and; three, you may be charged with a  
16 separate crime of bail jumping which can mean  
17 additional jail time and/or a fine. In addition, if  
18 you commit a new offense while you are released, in  
19 addition to the sentenced prescribed for that offense,  
20 you will be sentenced to an additional term of  
21 imprisonment of not more than 10 years if the offense  
22 is a felony, or not more than 1 year if the offense is  
23 a misdemeanor. That term of imprisonment would be  
24 executed after any other sentence of imprisonment is  
25 completed. While you are awaiting trial I also must

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2 warn you not to have any contact with or engage in any  
3 intimidation of potential or designated witnesses or  
4 jurors, not to engage in any intimidation of any court  
5 officer, and not to engage in any conduct that would  
6 obstruct any investigation by law enforcement. And,  
7 finally, if you don't agree with my decision, you have  
8 a right to appeal it.

9           Just a moment. All right, has Judge Schofield  
10 set a conference date?

11           MS. KUSHNER: She has not, Your Honor, she  
12 said that she would email the parties a proposed date.

13           THE COURT: All right, do I need to set a  
14 control date or anything else?

15           MS. KUSHNER: I think it would make sense to  
16 set a control date and to have time excluded until  
17 then.

18           THE COURT: What should I set for a control  
19 date.

20           MS. KUSHNER: Monday, November 29<sup>th</sup>, and we'll  
21 try and have, so we'll try to have the conference  
22 Monday, Tuesday, Wednesday, I just haven't heard from  
23 chambers as to when they're available.

24           THE COURT: All right, so I'll set a control  
25 date for November 29<sup>th</sup> and exclude time until then?

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MR. KELLY: Yeah, no objection.

THE COURT: All right. All right, I grant the exclusion of time, of speedy trial time to November 29<sup>th</sup> because I find that the needs of justice outweigh the best interests of the public and the defendant in a speedy trial based on the need for the government to start getting its discovery ready to produce to the defendant, for the counsel to be talking about a potential pretrial resolution, and for the parties to appear for a conference before the District Judge.

All right, anything further?

MS. KUSHNER: Nothing from the government, thank you, Judge.

MR. KELLY: No, Your Honor, I will email chambers with a production order shortly.

THE COURT: All right, thank you very much, we are adjourned.

(Whereupon the matter is adjourned.)



C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, United States of America versus Willie Dennis, Docket #20cr623, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: November 29, 2021